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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			LOHN, JOSHUA A	
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EXAMINER

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Commissioner for Patents

amended examiner's answer in response to order from board of patent appeals



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/849,916
Filing Date: May 04, 2001
Appellant(s): VOLETI ET AL.

Bradley A. Forrest
Reg. No. 30,837
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 28 September 2005 appealing from the Office action mailed 21 April 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1-11, 13-16, and 18-20.

Claims 21-23 are allowed.

Claims 12 and 17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The rejection of claims 12 and 21-23 under 35 U.S.C. 102(b) as being anticipated by Henrikson, United States Patent number 5,923,673 is withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Henrikson, United States Patent number 5,923,673.

Newton, H., Newton's Telecom Dictionary, 18th edition, February 2002, pages 309, 546.

Merriam-Webster's Collegiate Dictionary, 10th edition, 2001, page 610.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-11, 13-16, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Henrikson, United States Patent number 5,923,673. This rejection is set forth in a prior Office Action, mailed on 30 November 2004, reproduced herein.

As per claim 1, Henrikson discloses a computer implemented method of analyzing frames on a process control bus, the method comprising: selecting a frame to be analyzed (Henrikson, col. 4, lines 65 through col. 5, line 2, where the frame is the event selected to be monitored); using a text file to identify function code formats (Henrikson, col. 5, lines 11-25, where providing the user choices would involve some text based user readable file that is then used to indicate a function code for related events); and calculating values for fields based on the function code formats (Henrikson, col. 5, lines 35-47, where the digital codes indicate events to be captured by filters that then calculate field values).

As per claim 2, Henrikson further discloses providing the values of the fields to a display (Henrikson, col. 5, lines 57-59).

As per claim 3, Henrikson further discloses reading data from a text file prior to selecting a frame (Henrikson, col. 5, lines 11-25).

As per claim 4, Henrikson further discloses storing data from the text file in a data structure (Henrikson, col. 5, lines 19-20).

As per claim 5, Henrikson further discloses searching for a matching record for the frame in the data structure (Henrikson, col. 5, lines 35-47).

As per claim 6, Henrikson further discloses that calculating values for fields based on the function code formats comprises finding a value in the frame and matching it to a corresponding verbal description from the text file (Henrikson, col. 5, lines 11-47).

As per claims 7-9, these claims are software implementations of the methods claims 1-3. Henrikson discloses the use of software in column 4, lines 53-54, and all other aspects of these claims are taught as mentioned above in the rejection of claims 1-3, thus Henrikson discloses the invention of claims 7-9.

As per claim 10, Henrikson discloses a system for interpreting packets on a process control bus, the system comprising: a communication module for coupling to the process control bus (Henrikson, col. 4, lines 34-37); a receive queue that receives a frame from the communication module (Henrikson, col. 4, lines 37-42, where the data capture device acts as a queue in the process of storing data in the main memory, col. 5, lines 37-39); an interpretation file (Henrikson, col. 5, lines 11-25, where trigger selections and associated digital data act as an interpretation file); and a receive module that compares records in the frame with records in the interpretation file to provide a user viewable interpretation of the frame (Henrikson, col. 5, lines 35-49).

As per claim 11, Henrikson further discloses a statistics module coupled to the receive queue for generating statistics regarding frames received from the process control bus (Henrikson, col. 7, lines 36-39).

As per claim 13, Henrikson further discloses a data link layer that identifies packets of data in frames (Henrikson, col. 4, line 65 through col. 5, line 2, where the ability to recognize

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each packet indicates that they are able to be accessed at the link layer as a frame that includes all relevant data, Henrikson, col. 5, lines 39-49).

As per claim 14, Henrikson further discloses an interpretation editor for modifying the interpretation files (Henrikson, col. 5, lines 11-25, where the user selections act as an editor for modifying the interpretation files).

As per claim 15, Henrikson further discloses that the interpretation file comprises a text file having information about data packets moving on the control bus (Henrikson, col. 5, lines 11-25).

As per claim 16, Henrikson further discloses that the text file comprises identifications of function codes and information regarding the interpretation of such function codes (Henrikson, col. 5, lines 11-25, where the trigger events represent function codes that are translated into digital data representations).

As per claim 18, Henrikson further discloses means for converting an interpretation file into structured records a data structure for use by the receive module in interpreting frames (Henrikson, col. 5, lines 26-39).

As per claim 19, Henrikson further discloses a log file coupled to the interpretation file, wherein the log file contains data received from the control bus (Henrikson, col. 4, lines 34-52 and col. 5, lines 32-39, where the captured data represents a log file).

As per claim 20, Henrikson further discloses an offline viewer coupled to the log files and interpretation file that interprets data packets in frames (Henrikson, col. 5, lines 57-59).

As per claim 21, Henrikson discloses a system for interpreting packets on a process control bus, the system comprising: a receive queue that receives packets of data in frames on the

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process control bus (Henrikson, col. 4, lines 34-52); an interpretation file (Henrikson, col. 5, lines 11-25, where the triggers and equivalent digital data provide for the functional equivalent of an interpretation file); and a receive module that compares records in the frame with records in the interpretation file to provide a user viewable interpretation of the frame, wherein the receive module generates a user viewable screen of information describing the frames, and comprising a pane for each selected frame that identifies interpretations of fields in the frame (Henrikson, col. 8, lines 7-28, and col. 5, line 57 through col. 6, line 14, where each event is displayed independently).

As per claim 22, Henrikson further discloses a screen for configuring and setting options for monitoring frames on the process control bus (Henrikson, col. 5, lines 11-25).

As per claim 23, Henrikson further discloses a statistics screen (Henrikson, col. 7, lines 32-49).

(10) Response to Argument

In the rejection above and the arguments that follow, the examiner would like to emphasize that the “frame” of the current application and the “packet” of the Henrikson patent are functionally equivalent, as is proven in that a “frame” is defined as a “packet”¹.

On page 10 of the Appeal Brief, applicant argues the interpretation of the claims used by the examiner is unreasonable, the crux of this argument follows is italicized below.

The present application describes the ability to provide interpretations of numerical and binary based packets or fields in communications on a bus. Such packets or fields are difficult to read and require the use of a manual to interpret. By having a text file with descriptions used to provide a verbal description to the user, troubleshooting is made much easier. The reference, Henrikson, uses filters to capture selected communications on a bus. The filters are not used to provide interpretations of captured packets, but merely to select which packets to provide to a user for viewing. Nothing in Henrikson discusses providing interpretations to a user to help in figuring out what the information in a packet means.

The examiner respectfully disagrees with applicant’s statements with regard to the reasonable interpretation of the claims. While the functionality of the present application and the Henrikson patent may differ, these differences are nonexistent in the reasonable interpretation of the claims. While Henrikson does not provide interpretations to figure out what the information in a packet means, this is not required by a reasonable interpretation of any claimed limitation. The limitations describing the interpretation file only require a translation that makes the packet

¹ Newton’s Telecom Dictionary, “Frame” entry, page 309.

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information able to be viewed by the user (independent claims 10 and 21). Henrikson does provide a reasonable form of this in the translation of the packet for the purpose of implementing the user's selection for packet filtering (Henrikson, column 5, lines 11-25, where the user uses a user viewable file to select a trigger event and the selected event is a translated form of the necessary digital data that is used to identify the packet).

One major difference, is that in the present claims, the frame is selected, and then the text file is used to identify function code formats and calculate values for fields. In Henrikson, the filters are first selected, and then the frames are selected based on the filters. Henrikson does not use text file after the frames have already been selected as claimed.

The examiner respectfully disagrees with applicant's statement above that the present claims require a specific order for the limitations to be executed. Any arguments about order are moot in view of the current claims. There are no order requirements, nor are there any direct dependencies within the independent claims. In claim 1, the selection of the frame is wholly independent of the identifying of the function code formats and the calculation of the values, as it is currently claimed these operations are independent with no requirement for order. Claim 7 is identical in this regard. In claims 10 and 21, a similar independence exists between the receive queue and the receive module where no direct order is required is made in the receiving of a frame and the translating of the frame as these two operations can be executed independently. In view of this reasonable interpretation the reference of Henrikson fully anticipates these limitations, regardless of the analysis occurring before the reception of the frames, the

information involved in the operations is of a nature equivalent to the information involved in the claimed invention.

On pages 10-12 of the Appeal Brief, applicant argues the patentability of claim 1, the relevant portions of the argument are italicized below.

Claim 1, describes using a text file to identify function code formats, and to calculate values for fields of a frame based on the function code formats. The Office Action indicates that Henrikson uses a text file to identify function code formats at Col. 5, lines 11-25, where providing the user choices would involve some text based user readable file that is then used to indicate a function code for related events". The cited language only describes the use of a user interface to allow the user to select trigger events, and select captured data for display and storage. Providing user choices in Henrikson relates to setting up a filter to obtain data, not to help a user interpret selected data.

The examiner respectfully disagrees that the argument that Henrikson fails to help a user interpreted the selected data is relevant to the currently phrased claim. A reasonable interpretation of claim 1 only requires that code formats are identified and values are calculated for frames using these code formats. The Henrikson reference discloses this in the user trigger event selection. The providing of trigger events to select from constitutes the identifying of desired function code formats (Henrikson, col. 5, lines 11-14). Henrikson further provides for the calculating values for fields based upon these function code formats in the translation of the selected trigger events into a predetermined sequence of digital data (Henrikson, col. 5, lines 19-

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20). It would have been known by one skilled in the art that the translation of a generic event until a specific digital data signature would require calculating the field values inherent to all packets².

There is no identification of function code formats of a selected frame as claimed, nor use of a text file to identify them. First, the Office Action uses the phrase "would involve some text based user readable file. . ." The language "would involve" is very weak, at best implying inherency or official notice. Neither has been properly established.

The examiner respectfully disagrees that there is no identification of function code formats using a text file. The examiner has previously rejected this feature as being inherent in the user interface selection of Henrikson, and continues to support this argument. The user interface of Henrikson is used to allow the user to choose an event that should be captured and analyzed, as required by the claimed language. It is inherent that the initial user interface selection is made using a text file to identify the desired trigger event code formats. This is inherent because the nature of a packet is such that the only way to describe the information contained in it is through a textual basis. Information such as the header codes and data payload, defined merely as abstract data bits², would have to be presented in a text file to display, to the user, the required information to provide the informed selection disclosed in Henrikson. This text file would all the selection of events to be made. The event that is selected is not identical to the form of the data in the packet being captured. This is because the selected event must first be

² Newton's Telecom Dictionary, "Packet" entry, page 546.

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translated into a proper sequence of digital data bits, which is the calculating values step, before it may be used in the frame selecting stage (Henrikson, col. 5, lines 11-15 and lines 19-20).

Second, trigger events are not the same as function code formats. Function code formats describe the format of fields in a frame as such term is used in the claim and described in the specification. They help a user understand what the captured frame information means without having to resort to a manual to decode the games. Henrikson simply does not use a text file in the same manner as that described in claim 1.

The examiner respectfully disagrees with applicant's argument that trigger events are not the same as function code formats. There is no requirement in the claims that the function code formats provide greater user understanding. The only requirement of the function code formats is that they allow for calculating the values for fields, which is provided for in Henrikson's disclosure, where the event codes are used to calculate the digital signatures to search for in the packet fields (Henrikson, col. 5, lines 11-20).

The Office Action also indicates that Henrikson, col. 5, lines 35-47 describe "... digital codes indicate events to be captured by filters that then calculate field values." This assertion is respectfully traversed. The cited language makes no reference to the calculation of field values. In fact, the cited language of Henrikson merely indicates that the filter is used to capture response retry timeout errors, and capture the error transmission and bytes after such transmission. No calculation of values for fields is mentioned or implied.

The examiner respectfully disagrees with applicant's arguments that Henrikson fails to disclose the calculation of values for fields. The calculation is provided for in the translation of

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the generic event selection into a predetermined sequence of digital data, which is then used in the identification of the packets to be captured (Henrikson, col. 5, lines 19-20 and 29-39). This calculation would inherently include field values, because all packets and frames include various fields, such as the header, trailer, and text payload, which must be identified to determine the type of packet².

...In Henrikson, a filter is not calculated, but rather is selected or specified. A filter does not calculate in Henrikson, it is merely used to identify data, such as the response retry timeout errors, which are then compared. It is also believed unreasonable to interpret filters as fields of a frame. It is possible that a filter may identify data to search for in a frame, but that is quite different from calculating a value for fields based on the function code formats as claimed. No one of average skill in the art would interpret it as such.

The examiner respectfully disagrees with applicant's assertion that Henrikson does not disclose calculating a value for fields in the filters specified. As mentioned above, a filter used to identify a packet would inherently include values, calculated from the translation of the event selection, to provide for identification of the various fields of a packet of frame².

On pages 12 of the Appeal Brief, applicant argues the patentability of claim 2, the relevant portions of the argument are italicized below.

Claim 2 recites providing the values of the fields to a display. The Office Action indicates that Henrikson does so at col. 5, lines 57-59. Since the values in claim 2 are calculated, and

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Henrikson does not describe the calculation of values, no such values are provided by Henrikson, and the rejection should be withdrawn.

The examiner respectfully disagrees that Henrikson does not describe calculated values to provide. The values in the fields, which are used as the source of the filters that provide the data to be displayed, are calculated based upon the user selected events, the calculation of which is described in Henrikson, col. 5, lines 19-20, and is further described in the arguments relating to claim 1 above. These calculated field values are then used to select the packets, of which the matched fields would be included in the display of the data contained in the packet (Henrikson, col. 5, lines 57-59).

On page 12 of the Appeal Brief, applicant argues the patentability of claim 6, the relevant portions of the argument are italicized below.

Claim 6 further describes matching a value in the frame to a verbal description from the text file. This further illustrates one purpose of the presently claimed invention. One purpose is to provide explanations of fields to users so a user does not have to resort to a user manual to interpret bus traffic. Henrikson, by using filters, approaches analysis from a different angle, that of trying to cull out specific traffic identified by the filters. It does not use text files to explain about fields in frames, but uses a menu to help select filters to compare desired bus traffic. This is a completely different approach to monitoring bus traffic, and the claims clearly distinguish from Henrikson by providing descriptions about particular fields of a selected frame.

The examiner respectfully disagrees with applicant's arguments that the approach of Henrikson does not provide for a reasonable interpretation of the invention as claimed. The examiner does not argue that Henrikson provides a different approach for monitoring the bus traffic, however the invention of Henrikson is within the claimed scope of current application. Henrikson discloses matching the verbal description from the text file to help find a value relating to the frame being selected to be analyzed, this is done in the use of the user input, from an inherently provided text file, being translated into field values to provide for frame selection, as detailed in the discussions of claim 1 above, and cited in Henrikson, col. 5, lines 11-30).

On pages 12 and 13 of the Appeal Brief, applicant argues the patentability of claims 10-23, the relevant portions of the argument are italicized below.

Claims 10-23 specifically refer to using an interpretation file, and the provision of a user viewable interpretation of the frame by using records in the interpretation file.

...Henrikson captures communications. It does not help with interpreting packets, but allows a user to analyze and record the data communications. The present invention as claimed in claims 10-23, actually provides a viewable interpretation of the frame.

Henrikson filters communications to provide the user a list of them that meet the filter requirements. This is not an interpretation of a frame as used in the claims, as it is not a user viewable interpretation of a frame, but rather a list of communications that meet the filter criteria.

The examiner respectfully disagrees that Henrikson fails to disclose interpret the frame to provide a user viewable interpretation of the frame. Henrikson shows a user viewable event list

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that is a view interpretation of the frame data. If this data were not interpreted, the user would only have been provided with the digital data of the data packet (Henrikson, col. 5, lines 19-20). The user readable event list is provided through the inherent use of an interpretation file to provide this translation (Henrikson, col. 5, lines 11-20).

One major difference is that in the present claims the frame is selected, and then the interpretation file is used to provide a user viewable interpretation of the frame. In Henrikson, the filters are first selected, and then the frames are selected based on the filters. Henrikson does not use an interpretation file after the frames have already been selected.

The examiner respectfully disagrees that the present claims require an order for the operation. The claims merely list elements of a system, and their function, at no point is an order for operating the system claimed, or required from the claims as they are currently worded.

...Henrikson does not describe anything regarding interpretation of frames, it merely compares information in a communication to information in a filter to see if it matches.

The examiner once again respectfully disagrees that there is no interpretation of frames disclosed in Henrikson. As mentioned above, it is inherent in the translation of the data packets, between a digital data format and a user readable format, that an interpretation of the frames is performed. This interpretation is required for the user displays associated with Henrikson's filtering to work (see the previous discussions and Henrikson, col. 5, lines 11-59).

The Examiner also equates trigger selections and associated digital data to an interpretation file. This is believed an unreasonably broad interpretation of both the

elements of Henrikson and the current claim language. The Examiner was requested to provide a reference supporting such interpretations, as it is believed outside the interpretation of one of ordinary skill in the art.

The examiner respectfully disagrees that the use of the translation from the trigger selections to the related digital data is an unreasonably broad interpretation of the claim language. The examiner does not feel that a reference is needed to be provided other than the plain language definition of interpret. This term can be used to mean “explain the meaning of”, as the applicant argues, but an equally common definition is “to translate”, such as in the form of a machine translating commands³. Due to the broad nature of the claim language, the examiner rejected the claim using the second definition, which was within the broadest reasonable interpretation, to show that the invention of Henrikson falls within the scope of the claims of the current application.

...While the filters would appear to cull out messages corresponding to the filters, there is no interpretation of fields that is provided to the user, only a set of data corresponding to the filter. A user still would have to resort to a manual to interpret the meaning of fields in the data. The claim language appears to be taken outside the context of the application, and ignores the meaning of the interpretation file and a viewable interpretation of the frame. Such an interpretation describes the fields of the frame in a manner that saves a user from having to resort to a manual to decode the meaning of the fields and values within the fields of frames.

³ Merriam-Webster's Collegiate Dictionary, “interpret” and “interpreter” entries, page 610.

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The examiner respectfully disagrees with applicant's arguments that the Henrikson fails to disclose interpreting fields. The examiner also respectfully disagrees that the claim language is take too far from the context of the application. The examiner feels that the generic language and broad nature of the claims lead to a broad and reasonable interpretation of the claims that goes well beyond the limits of the application. The claims, as currently written, would extend well beyond the application's intended purpose of assisting the user, and a reasonable interpretation of these claims includes the invention of Henrikson within the scope. The translation provided for in Henrikson would inherently include any necessary interpretation of fields, as required by the currently claimed language, the details of this disclosure are provided above and derived from column 5, lines 11-20.

On pages 13 and 14 of the Appeal Brief, applicant argues the patentability of claim 12. The examiner agrees with applicant's arguments that a slave identifier would not be an inherent feature of the bus system of Henrikson, and would be inherently included in system information statistics.

On page 14 of the Appeal Brief, applicant argues the patentability of claim 14, the relevant portions of the argument are italicized below.

Claim 14 includes an interpretation editor for modifying the interpretation files.
This element is indicated as being shown in Henrikson at col. 5, lines 11-25, "where the user selections act as an editor for modifying the interpretation files." This line of reasoning by the Examiner continues the thought that a filter is the same as an

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interpretation file. This is respectfully traversed. The interpretation file is clearly defined as something that helps a user understand cryptic fields in a frame. A filter is an entirely different construct. The language cited in Henrikson clearly highlights that the filters are used to "select captured data for display" not to help in interpreting what the data means.

The examiner respectfully disagrees that Henrikson fails to disclose modifying the interpretation files. The claimed invention is of a broad enough nature that for the purpose of a fair examination the filter of Henrikson is functionally equivalent to the interpretation file disclosed in the currently claimed invention, as has been detailed in the above discussions of the previous claims. The filters of Henrikson are further used to translate the desired data in order to capture the appropriate packets. The modification of the user selections would inherently correspond to the modification of an interpretation file as is currently claimed. The support for this conclusion is provided in the above arguments and in Henrikson, col. 5, lines 11-60.

On page 14 of the Appeal Brief, applicant argues the patentability of claim 15, the relevant portions of the argument are italicized below.

Claim 15 further refines the interpretation file of claim 14 as having information about data packets moving on the control bus. A filter in Henrikson does not have information about specific data on the bus, but rather contains data that is desired to be found in data on the bus. It does not provide information about a specific data packet on the bus as claimed.

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The examiner respectfully disagrees that Henrikson fails to disclose providing information about specific data packets on the bus. The invention of Henrikson clearly captures data packet data, which is being transmitted on the bus. This captured data is then forwarded to the user display to provide information about the specific data packet, see Henrikson, col. 5, lines 35-59.

On pages 14 and 15 of the Appeal Brief, applicant argues the patentability of claim 16, the relevant portions of the argument are italicized below.

Claim 16 depends from claim 15, and further specifies that the text file comprises identification of function codes and information regarding the interpretation of such function codes. The Examiner indicates that Henrikson at col. 5 lines 11-25 describe trigger events that "represent function codes that are translated into digital data representations." The cited language appears to be somewhat the reverse of the present claims. ... The claims call for the selection of frames, then the interpretation of the frames. Henrikson does not appear to interpret the data from the bus, but does translate the events that are used to find the data on the bus. This is quite different from the claims, and clearly does not anticipate the claims.

The examiner respectfully disagrees with applicant's arguments about the order requirement of the claims. Despite Henrikson's disclosure of a different order of operations, a broad, reasonable interpretation of claim 16 would not require any specific order. Neither claim 16 nor any of the claims it depends from disclose an order requirement as they are currently

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recited. Further the limitation of claim 16 merely shows a file that allows interpretation between function codes and their meanings. The filter translations of Henrikson clearly displays the necessary interpretation, in the form of the translation between events and data representations, see Henrikson, col. 5, lines 11-20.

On pages 15 of the Appeal Brief, applicant argues the patentability of independent claim 21 and all its dependent claims. The examiner agrees that Henrikson fails to disclose the “providing a user viewable screen of information describing the frames, and comprising a pane for each selected frame that identifies interpretations of fields in the frame.” This limitation, when taken within the context of the claims as a whole, and applicant’s related arguments, comprise the examiner’s reasons for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Joshua Lohn

Conferees:

Scott Baderman, Lynne Browne


SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER


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APPENDIX OF EXTRINSIC EVIDENCE